

CANDY

20901. Action to enjoin and restrain the interstate shipment of adulterated candy. U. S. v. Luden's, Inc., Daniel W. Dietrich, H. Earl Erb, and Robert B. Esterly. Temporary restraining order entered. Action subsequently dismissed. (Inj. No. 247.)

COMPLAINT FILED: On or about March 5, 1952, Eastern District of Pennsylvania, against Luden's, Inc., Reading, Pa., Daniel W. Dietrich, president of the corporation, H. Earl Erb, secretary-treasurer, and Robert B. Esterly, production manager.

NATURE OF CHARGE: The complaint alleged that the defendants were engaged in the manufacture and distribution of candy and had been and were at the time of filing the complaint causing the introduction and delivery for introduction into interstate commerce of candy which was adulterated under Section 402 (a) (3) in that it consisted in part of filthy substances by reason of the presence of rodent and insect filth, and under Section 402 (a) (4) in that the candy had been prepared and packed at the corporation's Reading plant under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the plant resulted from and consisted of the presence of rodent excreta, rodent urine, live and dead insects, rodent-gnawed materials, and nondescript filth in and around places in the plant where the article was being prepared and packed and in and around equipment and materials used for preparing and packing the article. The insanitary conditions also resulted from general carelessness on the part of the defendants and their employees.

The complaint alleged also that various inspections had been made of the corporation's Reading plant by inspectors of the Food and Drug Administration, at which times the insanitary conditions were brought to the attention of the defendants and their employees, and that despite the warnings conveyed by such plant inspections, the defendants continued to cause to be introduced and delivered for introduction into interstate commerce adulterated candy.

DISPOSITION: On March 5, 1952, the court issued a temporary restraining order enjoining the defendants against the introduction and delivery for introduction into interstate commerce of candy which was adulterated within the meaning of Section 402 (a) (3) and (4). By stipulation of the parties, the temporary restraining order was continued in effect until May 16, 1953. On May 20, 1954, as a result of the complete correction of the conditions complained of, and with the consent of all parties, an order was entered dismissing the action.

20902. Adulteration of coconut bonbons. U. S. v. Roy Z. Hershey (Pitt Chocolate Co.). Plea of not guilty. Tried to the court and jury. Verdict of guilty. Defendant fined \$1,500, plus costs, and sentenced to 4 months in jail. Jail sentence suspended and defendant placed on probation for 3 years. (F. D. C. No. 35188. Sample Nos. 3049-L, 8294-L, 8296-L, 44615-L to 44617-L, incl.)

INDICTMENT RETURNED: November 17, 1953, Western District of Pennsylvania, against Roy Z. Hershey, trading as the Pitt Chocolate Co., Wilkesburg, Pa.